

VZCZCXRO3135
PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSL RUEHSR
DE RUEHMD #1207/01 3561638
ZNY CCCCC ZZH
P 221638Z DEC 09
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 1589
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEHFR/AMEMBASSY PARIS PRIORITY 1551
RUEHRO/AMEMBASSY ROME PRIORITY 2537
RUEHLA/AMCONSUL BARCELONA PRIORITY 4274
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUCNFB/FBI WASHDC PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
RUEAHLA/HOMELAND SECURITY CENTER WASHINGTON DC PRIORITY
RUEILB/NCTC WASHINGTON DC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 MADRID 001207

SIPDIS

DEPARTMENT FOR EUR/WE (ALEX MCKNIGHT AND STACIE ZERDECKI),
EUR/PGI (LONNI REASOR), S/CT (MARC NORMAN), INR/TNC (CHASE
HOGLE), INR/EUC (JANICE BELL),
DEPARTMENT PASS TO NSC (ELIZABETH FARR)
EUCOM FOR DEVONNA GRAHAM

E.O. 12958: DECL: 12/13/2019
TAGS: [PGOV](#) [PINS](#) [PTER](#) [KJUS](#) [SP](#)
SUBJECT: SPAIN: AL-QAIDA TIES EMERGE IN TRIAL FOR PLOT
AGAINST BARCELONA SUBWAY

REF: A. 08 MADRID 73
[B](#). MADRID 505
[C](#). 08 MADRID 1214
[D](#). 08 MADRID 1269
[E](#). OSC EUP20091215950011
[F](#). MADRID 1124

MADRID 00001207 001.2 OF 003

Classified By: CDA Arnold A. Chacon for reasons 1.4 (b) and (d)

[1](#)1. (C) SUMMARY: The National Court delivered a stronger-than-expected verdict on December 14 when it convicted all 11 defendants arrested in the "Operation Cantata" case to between 8.5 - 14.5 years imprisonment for membership in a terrorist organization. Authorities arrested the cell members in January 2008 before they could finalize their plot to attack the Barcelona metro system (Ref A) in response to the Spanish military presence in Afghanistan. One of the highlights of the trial was the surprise testimony by the government's star witness, a member of the Barcelona cell before he turned on his colleagues, that he has been a member of Al-Qaida (AQ) since 2005. The trial was arguably the most high-profile one against radical Islamic terrorists in Spain since the 2007 trial of the Madrid train bombers. The strength of the verdict, which a leading counter-terrorism (CT) expert attributes to the presiding judge, is surprising for two reasons: it contrasts with a series of acquittals by the Spanish judiciary in recent radical Islamic terrorism cases (Refs B and C) and there was a widely held view that the evidence in this particular case was weak. Press reports indicate the defendants, all of whom proclaim their innocence, plan to appeal the ruling.

[1](#)2. (C) Meanwhile, the convictions - and recently announced plans by the Defense Minister to increase Spain's military presence in Afghanistan by 50 percent - occur against the backdrop of the November 29 kidnapping of three Spanish NGO workers in Mauritania by Al-Qaida in the Mahgreb (AQIM), which in its communique claiming responsibility has indicated that it may seek a prisoner exchange. END SUMMARY.

//The Case//

[1](#)3. (SBU) As a response to Spain's military presence in

Afghanistan, the cell allegedly was plotting to conduct an underground attack in the Barcelona subway system, a target which reportedly was chosen because it would be difficult for first-responders to access. A spokesman for Tehrik e Taliban Pakistan (TTP), a Pakistani terrorist group with links to AQ, would then issue a series of demands, which, if not met, would lead to a series of other attacks in France, Germany, Portugal and the UK. The plot fell apart when a cell member who arrived in Barcelona from Paris was informed that a phone call he just made to his family would be his last because he had been selected to be a suicide bomber. The cell member got cold feet and made a private phone call that alerted security forces, which immediately arrested the group.

¶4. (C) Cantata has become synonymous with the GOS's policy of "preventative justice" (Refs C and D). On November 17, midway through the trial, Chief Prosecutor Javier Zaragoza, spoke at closed-door CT conference co-sponsored by Embassy Madrid, where he touted Cantata as an example of the preventative justice policy's success in keeping Spanish citizens safe. Nevertheless, Operation Cantata has been controversial from the moment it was conducted due to the scant explosives (18 grams, less than one ounce) found in the group's possession, the conflicting statements from Spanish and Catalan authorities regarding the cell's timeline for an attack, and doubts about the cell's links to foreign terrorist groups. As early as March 2008, Vicente Gonzalez-Mota, the National Court prosecutor in the case, told The New York Times that the evidence in the case was weak and in October 2008 he privately predicted to POLOFF that some of the defendants might be released after just three years in prison. (See Ref D). On November 16, CT expert Prof. Manuel Torres Sorriano of the University of Pablo de Olavide privately told POLOFF that he did not expect

MADRID 00001207 002.2 OF 003

a strong verdict because he did not think the evidence in the case was strong. Torres' remarks likely represented the consensus view among both CT watchers and the general public as the case went to trial.

//The Trial//

¶5. (SBU) The trial was held during November 12 - 24. Gonzalez-Mota originally asked for jail sentences ranging from 9 - 18 years for the defendants (10 of Pakistani origin and one born in India), whom he charged with membership or leadership in a terrorist organization and - for two individuals - possession of explosives. His strategy largely hinged on the testimony of the cell member who got cold feet who later agreed to serve as a government-protected witness known as "F1" in court proceedings. The other key evidence the prosecution used was the publicly available video in which TTP claimed responsibility for the cell's activities, jihadist propaganda material seized in the raid, and bomb-making components, such as timers, batteries, cables, latex gloves and steel pellets to serve as shrapnel. Officials from Spain's Civil Guard (GC) and National Intelligence Center also testified, asserting that the cell was only at the stage of conducting tests for its attack.

¶6. (SBU) Prior to the trial, the indictment and all of the public discussion about the cell's foreign links had focused exclusively on TTP. It was therefore a surprise when F1 testified that he has been a member of Al-Qaida since 2005 and that he traveled from Paris to Barcelona under orders from an AQ official in Paris. F1 testified that he spent a year and a half undergoing training in AQ camps in Pakistan, taking weapons training, the manufacturing of explosives, and "brainwashing." F1 added that he has never faced charges for his membership in AQ. In Paris, he reportedly formed part of AQ's finance network. Given the chance to renounce his ties to AQ during cross-examination, F1 reportedly did not do so, replying cryptically, "I can only say that I have come to tell the truth to the judges and they will be the ones who decide who I am now."

¶17. (C) Gonzalez-Mota did not initially file charges for plotting a terrorist attack, however late in the trial, reportedly emboldened by the testimony of GC officials, he decided to seek convictions against the defendants on these charges. With the new charges added, the defendants faced 17-26 years in prison if convicted on all accounts. Profesor Fernando Reinares, Director of the Program on Global Terrorism at the Real Instituto Elcano, a former CT adviser to the Minister of Interior, and one of Spain's most recognized CT experts, attended nearly all of the trial. Asked if these new charges were a last-minute surprise, Reinares replied that, on the contrary, the new charges were the "logical conclusion" to the cumulative testimony and evidence presented throughout the trial.

//The Verdict//

¶18. (SBU) The National Court on December 14 convicted all 11 defendants for membership in a terrorist organization and two of the defendants also were convicted for possession of explosives (Ref E). Shahib Iqbal and Qadeer Malik received 14.5 years for membership in a terrorist group and possession of explosives. Maroof Ahmed Mirza, an imam who served as spiritual leader of the group, received 10.5 years for leadership of a terrorist organization while the remaining defendants received sentences of 8.5 years for membership in a terrorist organization. The Court ruled that the defendants decided to follow the teachings of then TTP leader Baitullah Mehsud, whose group has ties to AQ, which led the cell to contact TTP and to prepare to carry out an attack with explosives against the metro system. The ruling added that the "indiscriminate" nature of the cell's planned attack and the large number of potential victims are evidence of the group's terrorist character. In issuing the ruling, the judges viewed the TTP videotaped claim of responsibility to be legitimate because the number of operatives cited was

MADRID 00001207 003.2 OF 003

consistent with the number in the Cantata cell and because no other attack is known to have been planned in Barcelona during that time.

¶19. (SBU) The Court acquitted all of the defendants of the charge of plotting to commit a terrorist attack, ruling that although the cell had agreed in general to conduct an attack, a specific plan had not yet been formed for the exact date and location of the attack.

¶110. (C) Reinares spoke at length with POLOFF on the day the verdict was announced. He attributes the strength of the verdict to the fact that Judge Javier Gomez Bermudez led the three-judge panel that heard the case. Reinares suggested that current CT legislation gives a lot of leeway to the judges in how to determine if a crime has been committed. In some instances, such as the trials in the Operations Nova and Tigris cases (Refs B and C), the judges have been more lenient in their rulings. However, Reinares asserted that Gomez Bermudez - who presided over the trials for the Madrid train bombings and the original Al-Qaida in Spain cell among others - "gets it" in terms of the threat that radical Islamic terrorism poses and is more inclined to assign harsher penalties.

//Outlook and Implications//

¶111. (C) The verdict in this case was stronger than was largely expected. It contrasts with a series of acquittals by the Spanish judiciary in recent radical Islamic terrorism cases, and there was a widely held view that the evidence in this particular case was weak. The defendants, all of whom proclaim their innocence, plan to appeal the ruling to the Supreme Court, which has a history of overturning lower court convictions in radical Islamist terrorism cases. The Supreme Court's eventual verdict will be the real test of the strength of this case. Meanwhile, Spain is in the process of

creating a range of new terrorism-related offenses which should strengthen its ability to prosecute radical Islamic terrorism in future cases and limit the margin of interpretation that individual judges have. In fulfillment of the Council of Europe's 2008 Agreement on the Prevention of Terrorism, Spain's Council of Ministers in November approved legislative reforms to criminalize such offenses as inciting terrorism and recruiting, training, indoctrinating and financing terrorism. The proposal still requires parliamentary approval to become binding law.

¶12. (C) The verdict also occurs against the backdrop of AQIM's kidnapping of three Spanish NGO workers in Mauritania. (COMMENT: Spain's Ambassador to Mauritania is Alonso Dezcallar, brother of the Spanish Ambassador to the U.S.). AQIM, which in 2009 killed a British hostage when HMG did not meet the group's demands, has hinted that it is interested in a prisoner exchange to secure the release of its "brothers" in Spanish jails. AQIM has posted a message stating, "Your security and your citizens depend on the safety and security of our citizens. We will do everything possible to save our hostages who are being tortured in your jails." Spanish press reports from prior to the Cantata verdict suggest there are roughly 65 radical Islamic terrorists in Spanish jails, the majority of whom are from Algeria (many of whom belonged to a forerunner to AQIM), although there are also numerous Moroccans and Tunisians.

¶13. (C) There is widespread speculation that AQIM could also demand that the GOS, which in November reportedly facilitated the largest-ever ransom to Somali pirates to free the crew of a Spanish fishing vessel (Ref F), pay a sizable ransom and/or withdraw Spanish forces from Afghanistan. Defense Minister Chacon's December 17 announcement that the GOS will seek to raise its ISAF troop levels from roughly 1,000 to more than 1,500 signals that the GOS is not considering a drawdown in its troop levels in Afghanistan. Reinares privately predicts a long, drawn-out kidnapping in which AQIM uses the hostages for maximum propaganda and economic gain.
CHACON